

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
June 22, 2004

The meeting was called to order at 6:31 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, Woodruff

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:32 p.m. to discuss exempt public records and pending litigation under ORS 192.660(2)(f)(h).

Executive Session concluded at 6:44 p.m.

Study session convened at 6:44 p.m.

- STUDY SESSION

- > REVIEW OF WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES (WCCLS) LEVY RESULTS

Library Director Barnes provided the Council with background information and voter statistics on previous levy attempts. The Council's position on a November, 2004 WCCLS levy was requested.

Although the Council supports the levy, several Councilors expressed concern over competing measures that are likely to appear on the November ballot. The number of competing money issues may make all ballot issues difficult to pass. The Council was also concerned about waiting an additional two to four more years to place this issue on the ballot again.

General consensus of the Council was they supported the WCCLS levy appearing on the November ballot, although they had some reservations regarding the timing.

> ADMINISTRATIVE ITEMS

- a. Review Street Maintenance Fee Billing Memo
City Manager Monahan cited a June 22, 2004 memo from Financial Operations Manager Imdieke. The memo detailed an error in the calculation of the street maintenance fee for some customers. Finance Director Prosser explained the error had already been corrected and the credit would appear on the customer's next statement.
- b. Volunteer Appreciation Scheduled for Friday, June 25
Councilor Moore indicated he would not be able to attend and Councilor Sherwood indicated she would attend. The format of the event was discussed.
- c. Calendar Review
City Manger Monahan noted the following dates:
 - June 23 – Potential Council Meeting – 6:30 p.m.
 - June 24 - Potential Council Meeting – 6:30 p.m.
Councilor Moore stated he was not available on this date.
 - July 5 – City Hall Closed to observe 4th of July holiday
 - July 8 – Ethics Training – 7 p.m.
Several Councilors indicated they would not be able to attend.
 - July 13 – City Council Meeting – Business Meeting
 - July 20 – City Council Meeting - Workshop
 - July 27 – City Council Meeting – Business Meeting
- d. SEIU/OPEU Ratified Contract
Mr. Monahan reported the SEIU/OPEU contract had been ratified, but final numbers were not yet available.
- e. Mr. Monahan referred to a memo from Mr. Stobbe inquiring how park SDCs collected in the annexed portions of Bull Mountain had been spent. Mr. Monahan explained the city does not track where SDCs are collected. All SDCs go into the same pot. He noted Mr. Stobbe may be at the meeting tonight. A brief discussion about how SDCs were spent and the city's attempts to purchase land in the Bull Mountain area ensued.

With regard to the Bull Mountain annexation, City Attorney Firestone indicated the Council could configure the SDCs so monies collected from certain areas were subsequently expended in those same areas.

Councilor Wilson suggested the creation of a guideline, as opposed to a policy, which would allow for some flexibility in expending SDC funds. If the policy is too restrictive, opportunities may be lost due to the funding constraints. City Attorney Firestone stated the SDC project list could be used to evaluate whether the distribution and priority of projects corresponded to the source of the funding.

- f. The Council discussed format options for public comments regarding the Bull Mountain White Papers. It was noted comments must be related to the white papers.

> NON-AGENDA ITEMS

City Manager Monahan requested the Council consider a resolution to appoint Jane McGarvin as Deputy City Recorder.

Study session recessed at 7:16 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the Council and Local Contract Review Board Meeting to order at 7:32 p.m.
- 1.2 Roll Call: Mayor Dirksen, Councilors Moore, Sherwood, Wilson and Woodruff were present
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports

If there was time later in the meeting, Councilor Sherwood stated she had information she wished to discuss regarding the Regional Blue Ribbon Housing Task Force.

- 1.5 Call to Council and Staff for Non-Agenda Items

City Manager Monahan requested the Council consider a resolution appointing Jane McGarvin as Deputy City Recorder under Non-Agenda Item #13.

VISITOR'S AGENDA

Mayor Dirksen reminded the audience the visitor's agenda provided an opportunity to address the Council on items that were not scheduled to be discussed on the evening's agenda. If people wished to comment on the Bull Mountain White Papers, he asked them to reserve their comments until the item was up for consideration.

- Keshmira McVey, 13525 SW Beef Bend Rd., Tigard, Oregon, expressed concern over Tigard residents' cost associated with the Bull Mountain annexation. She pointed to a \$4,000 expenditure to hire a public relations consulting firm and a supplemental budget required, in part, to cover additional attorney costs related to the annexation. She questioned whether Tigard residents were aware of what the attempted annexation of Bull Mountain was costing them. She placed annexation figures in the \$30 million range and inquired what impact this had on the city's budget. She noted, should the annexation move forward, expensive litigation would likely result. She stated public officials have a fiduciary obligation to their constituents to weigh the benefits and costs of policy decisions. She questioned why the Council was spending scarce resources to annex the south slope of Bull Mountain, when it could choose to annex only a portion of the mountain, thus avoiding additional costs.
- Ken Henschel, 14530 SW 144th Ave., Bull Mountain, Oregon, responded to comments regarding the single majority voting methodology made by Mayor Dirksen at the June 8, 2004 Council meeting. Mr. Henschel reported on June 8, the Mayor was responding to citizens who had expressed concerns that the single majority vote was unfair, undemocratic and diluted the votes of Bull Mountain residents. Mr. Henschel summarized Mayor Dirksen's comments, stating the Mayor asserted it would be unfair for a smaller population of registered voters, in a double majority vote, to overwhelm the registered voters of a larger population; that such a double majority vote would allow 4,000 Bull Mountain voters to be the voting equivalent of 22,000 Tigard voters. This would result in a Tigard vote having the electoral equivalent of one-fifth of a Bull Mountain vote.

Mr. Henschel suggested the following scenario. The financially-strapped City of Portland discovers a legal document which enables it to annex the City of Tigard. Portland will gain a source of revenue, while Tigard residents will see their taxes increase substantially without any improvement in service. Portland has 282,000 registered voters and Tigard has 22,000. Mr. Henschel posed the question: as a Tigard resident, would you prefer to have your vote thrown into a pot with Portland voters in a "winner take all scenario," or would you rather have separate

Portland and Tigard votes, requiring a majority in each, before annexation could move forward?

Mr. Henschel concluded by saying both Bull Mountain and Tigard residents would embrace the concept of fairness. He asked the Council and Tigard citizens to reflect on his scenario and reminded them of the golden rule, which is not, "He who has the gold makes the rules," but is, "Do unto others as you'd want them to do unto you."

- Dick Franzke, 14980 SW 133rd, Tigard, Oregon, read from a prepared statement regarding his concern over the city hiring a public relations firm to try to "sell" voters on annexation. A copy of Mr. Franzke's statement (Agenda Item No. 2, Exhibit 1) is on file in the City Recorder's office.
- M. Edith Girouard, 16525 SW Queen Mary Ave., King City, Oregon, declined to speak.
- Larry Gage, 15149 SW Cabernet Dr., Bull Mountain, unincorporated Washington County, Oregon, wanted to address his general concern over police protection should Bull Mountain be annexed. Mr. Gage remarked his Bull Mountain neighborhood was a very safe and pleasant community. He attributed this, in part, to the safety and protection provided by the Washington County Sheriff's Department.

Mr. Gage explained he wondered if the shift in police service resulting from annexation would threaten the livability, peace and safety of his neighborhood. To evaluate Tigard's commitment to crime prevention and public safety, Mr. Gage cited 2002 FBI crime statistics, reporting Tigard had a higher per capita crime rate, for burglaries, auto theft and rape, than New York City. Mr. Gage stated these statistics were shocking and disturbing. With the annexation of the Bull Mountain area, and greater demands on the police department, Mr. Gage expressed concern that Tigard police would provide a reduced level of service to both Tigard and Bull Mountain residents. He added the Council should not assume Bull Mountain residents would find Tigard's level of police service acceptable.

Mayor Dirksen announced there was a two-minute time limit on visitor's agenda comments and reminded the audience that comments related to the white papers would be heard during that agenda item.

- Holly Shumway, 14535 SW Woodhue, Bull Mountain, Oregon, informed the Council that public notice signs, related to the July 27 Bull Mountain annexation public hearing, were poorly placed and difficult to read.

Ms. Shumway requested Tigard post Citizen Participation Organization (CPO) meetings on its web site. Mr. Shumway advised many of the land use issues addressed at these meetings would be of interest to Tigard residents, but the group was having difficulty attracting Tigard participants.

Ms. Shumway noted the discussion of the white papers had been placed toward the end of the meeting and she would not be able to remain. She related she would have someone else present the Council with a resolution relating to this agenda topic.

Councilor Moore asked if the CPO meetings were advertised on the Washington County web site. Ms. Shumway responded they were not. Councilor Moore explained if the information were available on the county web site, Tigard could create a link to the information. Ms. Shumway stated she would talk to the county and Mayor Dirksen said the city would look into the matter.

- Kathleen Palmer, 14260 SW High Tor Dr., Tigard, Oregon, stated she had chosen to reside on Bull Mountain due to the areas peace, quite, country charm and proximity to Tigard and King City. Ms. Palmer indicated the area had lost its community character due to construction, narrow streets and homes being "crammed together." She said the area had appealed to her because it had a "small town feel" and an emphasis on community involvement. Ms. Palmer described the city's history of volunteerism and remarked she hoped the city recognized the contributions of volunteers.

Mayor Dirksen advised a volunteer recognition event was scheduled for Friday evening.

- Lisa Hamilton-Treick, 13565 SW Beef Bend Rd., unincorporated Bull Mountain, Oregon, asserted she has observed a pattern of Tigard trying to muffle the voice of citizen involvement. She added the city has attempted to negatively impact the legal rights of people who wish to be involved in all phases of planning their neighborhoods. She asserted placement of the white paper agenda item at the end of the agenda would diminish the public's opportunity to hear testimony and deliberation.

Ms. Hamilton-Treick expressed concern over the lack of television coverage and inadequate accommodations for the large crowd which attended the December 2 Council meeting. She hoped the upcoming July 27 meeting would not be orchestrated in such a way as to limit the voice of the people through vague scheduling and by placing key agenda items at the end of the meeting. Ms. Hamilton-Treick challenged the Council to be open-minded, fair and aboveboard in the planning and advertising of the public hearing. She asked the Council to be respectful of the need to accommodate citizens in their desire to have a voice in the future of their community.

Ms. Hamilton-Treick related after extensive involvement and experience with the city, her impression is the city views citizen involvement as a necessary nuisance. She asserted the city was more interested in spending time on LUBA appeals and lawsuits than responding to the voice of the people. Ms. Hamilton-Treick continued by saying the city was wasting precious time and resources by having staff and the public participate in meaningless "feel good" exercises designed to demonstrate the city is fulfilling the minimal requirements for citizen involvement. Ms. Hamilton-Treick pointed to the Tigard Beyond Tomorrow visioning process as an example. She informed the visioning process is a valuable tool and was the result of sincere citizen effort over many years, yet she asserted the work is of little value since it is not tied to the comprehensive plan. She noted the same was true for the white papers.

Ms. Hamilton-Treick expressed concerns regarding the process for participating on the white paper subcommittees, asserting the methods to secure participants were vague, inadequately advertised and had unrealistic deadlines. She stated the CPO was to be involved in the white paper process, but the organization was not contacted. She recounted the November/December *Cityscape* contained inaccuracies related to citizen participation on the white papers and she relayed only a handful of people were actually involved.

Ms. Hamilton-Treick concluded by asking why the white paper sign-up sheet for public comment required speakers to declare their position on the matter.

2. CONSENT AGENDA: Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt the Consent Agenda as follows:
 - 3.1 Appoint Councilor Brian Moore to Vice-President of the Joint Water Commission

- 3.2 Endorse Metro Transportation Improvement Plan (MTIP) Application Package - Resolution No. 04 - 38
- 3.3 Approve Budget Amendment #21- Increase Funding for City Attorney Expenditures - Resolution No. 04 - 39
- 3.4 Approve Budget Amendment #23- Funding for Temporary Staff in City Management - Resolution No. 04 - 40
- 3.5 Adopt SEIU Contract & Authorize City Manager to Sign - Resolution No. 04 - 41
- 3.6 Appoint Downtown Task Force Members - Resolution No. 04 - 42
- 3.7 Amend Municipal Court Judge Michael O'Brien's Contract - Resolution No. 04 - 43
- 3.8 Approve the Washington County Inter-Library Information Network Agreement
- 3.9 Local Contract Review Board
 - a. Award the Contract for Self-Check Machines for New Library to 3M

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Mayor Dirksen recognized six Downtown Task Force appointees who were in attendance.

4. CONSIDER COUNCIL ACTION RELATED TO THE PORTLAND WATER CONTRACT

a. Staff Report

Public Works Director Koellermeier presented this item. He recounted the Council had requested a letter be sent to the City of Portland asking for a two-year extension to the water contract. Mr. Koellermeier relayed Portland had responded they were not interested in extending the current contract. The City of Portland proposed an amendment to the current contract, which according the letter, "effectively extends the contract, without preconditions, until July 2007 by waiving the three-year notice provision of the current contract." A copy of the letter and amendment (Agenda Item No. 4, Exhibits 1 and 2 respectively) are on file in the City Recorder's office.

Mr. Koellermeier explained the Council had three options:

- Take no action, which would allow the contract to roll over for another 25 years if Portland took similar action
- Agree to sign the amendment which would eliminate the three-year notice in the current contract and would allow several years for both cities to continue to negotiate a new contract
- Terminate the contract

b. Council Discussion

Councilor Sherwood informed she didn't want the city to end up with no water in three-years and she didn't want another 25 year contract, so she supported signing the amendment and negotiating a new contract. Councilor Wilson commented this option gave the city the greatest flexibility. Water rates are not specified in the contract, although the contract refers to a rate methodology.

It was noted the City of Portland had requested a response by June 25, 2003.

Mayor Dirksen suggested that signing the amendment to remove the three-year notice provision was the best way to obtain a new contract.

c. Council Consideration:

Motion by Councilor Sherwood directing staff to prepare a response to the City of Portland by June 25, 2004.

City Attorney Firestone suggested the motion should also state the amendment is authorized by the Council and will be signed by the Mayor.

Councilor Sherwood indicated the City Attorney's suggestion be added to her motion.

Councilor Woodruff seconded the motion.

The motion was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

5. UPDATE ON THE NEW LIBRARY

Library Director Barnes gave a PowerPoint presentation on the timeline and transition to the new library. A copy of the presentation is on file in the City Recorder's office. Ms. Barnes relayed reserved items would be handled by Beaverton Library, commemorative bricks were in place and the new library's address would be 13500 SW Hall Blvd.

6. CONSIDER ST. VINCENT DE PAUL AFFORDABLE HOUSING GRANT

a. Staff Report

City Manager Monahan introduced this item. Mr. Monahan stated Fr. Seig had requested assistance, in the form of a grant, to offset the cost of building and planning fees associated with a new food storage and distribution center associated with St. Vincent DePaul and St. Anthony's Church. Funds were requested through the city's Affordable Housing Assistance Program. This program was established to fund affordable housing acquisition, development and rehabilitation. It was noted that although the food storage and distribution center serves the low income community, no low income housing units would be affected by the requested funds. The request does not meet the Affordable Housing Assistance Program guidelines established by the Council.

b. Council Discussion

Councilor Sherwood stated St. Vincent DePaul provided financial assistance to keep low income people from becoming homeless. The agency supports the homeless shelter and prepares food boxes. She stated she hoped the Council could figure out a way to provide assistance relating to the new food storage and distribution center.

Interpretation of program guidelines and applicability and impact to the city's social service grant program were discussed.

Councilor Wilson expressed concern over making an exception to existing guidelines. He stated using funds for a grant which did not directly support affordable housing could mean a lost opportunity to fund projects that the money was intended to support.

In response to an inquiry, Mr. Monahan commented it would be difficult to make an exception to the guidelines. He explained the program had been in place for two years and specific criteria had been established. He stated modifying the program, rather than making an exception, would be the appropriate course of action. He noted other organizations may not have applied for funding under this program based upon the stated guidelines.

Mayor Dirksen explained the program was created so funds could be earmarked for affordable housing. If the program is changed, or an exception is made, this will set a precedent and the original goal of the program, to support the renovation or construction of affordable housing, may be lost. He inquired if there were any other sources of funding that could be used.

In response to an inquiry, Finance Director Prosser remarked that in the past, the Council had approved a budget amendment in which social service grants were created or increased during the fiscal year. Mr. Prosser stated the Council could direct staff to prepare a budget amendment to add funds to the city's social service grants, drawing on the general fund contingency.

Mr. Monahan commented such a budget amendment may set a precedent. He added St. Vincent DePaul had not submitted an application during the normal process of applying for social service funding. He remarked some agencies who had complied with the process had not been fully funded and no funds were awarded to new applicants.

Mr. Monahan suggested the Council could also consider the food storage and distribution center as a unique funding request, not tied to the social service budget. It was noted social service funds typically support ongoing projects as opposed to one-time requests.

Councilor Moore proposed developing a policy to address one-time funding requests which are not a good fit for social service or affordable housing grant programs. Councilor Moore asked if staff could investigate the issue and Council could discuss staff's findings at an upcoming work session. He stated

he was not comfortable supporting the request under the existing circumstances.

Councilor Woodruff acknowledged the good work and value that many organizations, including with St. Vincent DePaul, add to the community. He expressed concern about the impact of such requests on the budget. He explained should the Council fund the request, other organizations might seek the same consideration.

Mayor Dirksen summarized the Council's comments regarding this specific request, saying the Council's answer to the funding request appeared to be "no." However, he suggested since the Council did not have a mechanism in place to address this type of funding request, it could justify a one-time exception.

Mayor Dirksen noted there was support for the creation of a policy to address future funding requests which did not meet criteria established in other funding programs.

Councilor Wilson said the creation of a new policy was worthy of discussion, but did not want that to be construed as a commitment of support. He expressed concern over the budget.

c. Council Consideration

Motion by Councilor Sherwood, seconded by Councilor Moore, to revisit this item, not as a housing item, but as a food and housing support issue and discuss a policy decision at a future meeting.

Mayor Dirksen sought to clarify Councilor Sherwood's motion, stating the motion had two parts:

- to consider this request specifically
- to consider a policy regarding this kind of request

Councilor Moore interjected the policy should be established and in place before this request is revisited.

Mayor Dirksen confirmed the motion was to bring the issue back to Council to consider a policy and to then address the specific request.

The motion was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Mr. Monahan replied staff would try to assemble information for the July 20 or August work session. He confirmed this would be a three step process:

1. Discussion of the policy at an upcoming work session
2. Consider approving the policy at a subsequent meeting
3. Reconsider this application and possibly other requests at a subsequent meeting, once the policy has been established

Mr. Monahan mentioned the need to set aside funds should the policy be established.

7. PUBLIC HEARING – ADOPT SUPPLEMENTAL BUDGET FY 03-04, MAKE APPROPRIATIONS AND CREATE STREET MAINTENANCE FEE FUND

- a. **Summation by Finance Staff**
Finance Director Prosser introduced this item. He indicated this budget amendment would wrap up the 2003-2004 fiscal year. Mr. Prosser described the highlights of the supplemental budget as detailed in the Agenda Item Summary.
- b. **Mayor Dirksen opened the public hearing.**
- c. **Public Testimony**
There was no public testimony.
- d. **Staff Recommendation**
Mr. Prosser recommended approval of the supplemental budget.
- e. **Council Discussion**
There was no discussion.
- f. **Mayor Dirksen closed the public hearing.**

- g. Council Consideration - Resolution No. 04 – 44

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 04 – 44.

Resolution 04 - 44, A RESOLUTION OF THE CITY OF TIGARD
ADOPTING A SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2003-04,
MAKING APPROPRIATIONS AND CREATING A STREET
MAINTENANCE FEE FUND

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

8. PUBLIC HEARING – CONSIDER RESOLUTION FORMING SANITARY SEWER
REIMBURSEMENT DISTRICT NO. 27 (SW Murdock Street, 100th Avenue)

- a. Mayor Dirksen opened the public hearing.

- b. Summation by Engineering Staff

Project Engineer Berry introduced this item. Mr. Berry gave a brief PowerPoint presentation on this sewer district. Mr. Berry relayed the main points of the sewer reimbursement district program. He noted nine property owners are expected to exceed the \$15,000 reimbursement fee. If Council approves the formation of this district, a bid opening will be held on June 29.

In response to an inquiry from Councilor Moore, Mr. Berry advised that following the formation of the district, the city would proceed to the bid process. If acceptable bids were received, Mr. Berry stated this item would come back to the Council on July 13 with a staff recommendation on whether to award the construction contract.

- c. Public Testimony

- No one had signed the testimony sign-in sheet, but Mr. John Slaughter, 15055 SW 100th, Tigard, Oregon, indicated he would like to testify. Although not opposed to the sewer program, Mr. Slaughter stated the

current configuration was illegal as the district did not allocate costs to all properties within the district boundary. He indicated several lots could not be developed without sewer service.

Mr. Slaughter pointed out his property on the PowerPoint map and alleged his portion of the cost was incorrect, as an easement had been included in the computations and, in addition, the actual calculations were in error. Mr. Slaughter stated he had discussed his concerns with Mr. Berry on several occasions.

Once the district is formed, Mayor Dirksen stated there was a mechanism in place for Mr. Slaughter to contest his assessment.

Mr. Berry indicated he would review Mr. Slaughter's assessment the following day. Mr. Berry added during the sewer reimbursement district process, there would be several opportunities to adjust Mr. Slaughter's assessment, should there be an error.

Councilor Moore explained there would be another public hearing later in the process.

With regard to areas that were not assessed within the district boundary, such as Peppertree, Mr. Berry explained a public line would be brought up to the subdivision boundary. Streets within this development are private and septic systems are only 10 years old. There was little neighborhood interest in converting to sewer and it is unlikely anyone would connect. Mr. Berry explained there would be no reimbursement. The other large parcel excluded from the district is a Christmas tree farm to the west. This property is not developed, is too low, and the developer would be required to construct their own sewer should development take place.

Mr. Berry advised Mr. Slaughter had a long driveway which was not factored into his assessment.

Councilor Moore asked if the areas excluded from the district would benefit from the proposed project. Mr. Berry explained the general rule is each development pays for improvements along its frontage. In this way, improvements are extended throughout the community. He remarked people in the proposed district benefited from the installation of sewers paid for by subdivisions in the surrounding area.

Stating there may be a communication issue, Councilor Woodruff proposed that Mr. Berry, City Engineer Duenas and Mr. Slaughter meet to discuss Mr. Slaughter's concerns.

City Manager Monahan advised the Council could move ahead with the formation of the district, with an expectation that a meeting would be arranged with Mr. Slaughter to reconcile his issues. The Council could also elect to delay action until Mr. Slaughter's concerns are addressed.

Councilor Moore noted a delay in the formation of the district may have a detrimental effect on some property owners. Mr. Berry stated he was not aware of any people whose septic systems were in crisis.

Councilor Moore affirmed Mr. Slaughter would have another opportunity to address the Council should his concerns not be resolved.

Councilor Wilson informed he was satisfied with Mr. Berry's explanation regarding the exclusion of certain parcels. He noted the mathematical calculations remained an issue.

City Attorney Firestone advised Mr. Slaughter's option to challenge the assessment would be triggered by the formation of the district. This action begins the time limit for appeal. He noted the Council could amend the resolution later if appropriate. He added a cursory review of the code indicated an appeal may not be with a local authority, such as the city.

- d. Mayor Dirksen closed the public hearing.
- e. Staff Recommendation
Mr. Berry recommended approval of the resolution to establish Sanitary Sewer Reimbursement District No. 27.

Mr. Monahan proposed the meeting with Mr. Slaughter be incorporated into the staff recommendation. Mr. Berry stated staff would be in contact with Mr. Slaughter on June 23, 2004.
- f. Council Discussion
There was no further discussion.
- g. Council Consideration: Resolution No. 04 - 45

Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Resolution No. 04 – 45.

Resolution 04 - 45, A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 27 (SW MURDOCK STREET; 98TH, 100TH AV.; DARMEL, MARILYN CT.)

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

9. PUBLIC HEARING – CONSIDER RESOLUTION FINALIZING THE FORMATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 29 (SW Park Street, Derry Dell Court)

a. Mayor Dirksen opened the public hearing.

b. Summation by Engineering Staff

Project Engineer Berry introduced this item. Mr. Berry gave a brief PowerPoint presentation on this sewer district, but noted some of the PowerPoint slides listed the incorrect reimbursement district number. Mr. Berry provided a cost overview for this district. He noted of the 46 properties served by the district, 11 properties have exceeded the \$15,000 reimbursement fee.

c. Public Testimony

- Harris Hansen, 10610 SW Derry Dell, Tigard, Oregon, expressed concern that the project cost was \$200,000 more than the original projection. Mr. Hansen asked for an explanation of the substantial cost increase.

Mr. Berry responded the streets in the district were substandard. When excavation began, the sides of ditches caved in, the asphalt fell apart, and material not capable of supporting the sewer needed to be removed. Mr. Berry informed these were latent, subsurface conditions which could not have been anticipated in advance of the project.

In response to a comment from Mr. Hansen, Mayor Dirksen confirmed the increased cost of the project was not related to winter weather conditions. Mr. Berry stated the problems encountered would have occurred at any time of year. Mr. Berry explained the contractor ended up nearly rebuilding the entire street.

Mr. Hansen suggested the Council needed to review the sewer reimbursement district procedures. He pointed out the city had a bid from the contractor and yet the project was \$200,000 over the bid. He asserted engineering staff should be familiar with the soil conditions and roads. Mr. Hansen complained that administration and engineering costs, based on the project cost, totaled \$93,000. He remarked the potential for increased costs should be explained to property owners when the district is proposed. He added earlier communication regarding the district contained incorrect figures. Mr. Hansen said the city was not being honest with voters and taxpayers.

Mr. Berry stated the city could write contracts that would put the risk of subsurface conditions on the contractor and, in that way, the city would have a firm price for the project. However, the cost of such contracts would be greater, due to the assumption of risk, and in the long run property owners would end up paying more.

Mr. Hansen commented when the estimated project cost is 40 percent off, "... there's a problem somewhere."

- d. Staff Recommendation
Mr. Berry recommended approval of the resolution finalizing Sanitary Sewer Reimbursement District No. 29.
- e. Mayor Dirksen closed the public hearing.
- f. Council Discussion
There was no discussion.
- g. Council Consideration: Resolution No. 04 - 46

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 04 - 46.

Resolution 04-46, A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 29 (SW PARK STREET AND DERRY DELL COURT)

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Council business meeting recessed at 9:24 p.m.
Council study session reconvened at 9:31 p.m.

10. PUBLIC COMMENT – BULL MOUNTAIN ANNEXATION – SUBCOMMITTEE WHITE PAPERS

Mayor Dirksen reminded speakers comments were limited to two minutes and must pertain to the white papers.

- a. Mayor Dirksen opened the public hearing.
(See further comment under item "c." regarding the issue of a public hearing.)
- b. Summation by Community Development Staff
Community Development Director Hendryx provided an overview of this item.

Mayor Dirksen stated he was pleased with the outcome and quality of the white paper process. He commended the subcommittees on their work.

Councilor Wilson asked Mr. Hendryx to comment on the recruitment of people to serve on the subcommittees. Mr. Hendryx recounted there were press releases and interested parties were contacted in an attempt to solicit participants. He noted the Council had asked for participants at its December and January meetings, which were well attended. Mr. Hendryx stated he was not aware of anyone who was turned away. He added the Council even extended the deadline for participants to apply to serve on the subcommittees and noted it was sometimes difficult to find participants. Subcommittee members were representative of the community.

City Manager Monahan explained there was an application process associated with the subcommittees. The Mayor reviewed the applications. He reported in an attempt to balance subcommittee representation, some applicants may not have been selected to serve. He added some applications may have come in after the deadline.

c. Public Comments

Mayor Dirksen stated the public comment sign-in sheet has categories for proponents, opponents and neutral speakers. He advised this format is the one typically used by the city and was not specific to this agenda item. Mayor Dirksen noted the term "public hearing" has a legal connotation and this agenda item is not considered a public hearing, but an opportunity for public comment.

Proponents

- Francis McCole, 16625 SW Queen Mary, King City, Oregon, was not present.
- M. Edith Girouard, 16525 SW Queen Mary, King City, Oregon, was not present.
- Gretchen Buehner, 13249 SW 136th Pl., Tigard, Oregon, stated she enjoyed the presentation on the white papers at a previous Council meeting. With regard to the Parks White Paper, she suggested there was property, associated with reservoirs, which could be used as a park site. She stated such land was already in public ownership and mentioned a site near 122nd next to the Morissette development as an example.

Opponents

- Tom Fergusson, 14850 SW 141st, Tigard, Oregon, read from a prepared statement (Agenda Item No. 10, Exhibit 1) which is on file in the City Recorder's office.
- Tom Fergusson, 14850 SW 141st, Tigard, Oregon, noted Holly Shumway, who had signed up to testify, was unable to stay for the meeting. Ms. Shumway had requested Mr. Fergusson present the Council with a resolution (Agenda Item No. 10, Exhibit 2) from Citizen Participation Organization 4B. Mr. Fergusson read the resolution entitled, A Resolution Directing the Mayor and Council Members of the City of

Tigard to Oppose the Adoption of the Bull Mountain White Papers as Outlined. The resolution is on file in the City Recorder's office.

- Kelly Sholes, 14595 SW 144th Ave., Bull Mountain, Oregon, read from a prepared statement (Agenda Item No. 10, Exhibit 3) which is on file in the City Recorder's office.
- Dick Franzke, 14980 SW 133rd, Tigard, Oregon, summarized a prepared statement (Agenda Item No. 10, Exhibit 4) which is on file in the City Recorder's office. At the close of his comments, Mr. Franzke asserted the white paper topic was very important and complained speakers should not have been limited to two minutes.
- Ken Henschel, 14530 SW 144th Ave., Bull Mountain, Oregon, thanked the Council for the television monitor in the lobby, which allowed the overflow crowd to watch the proceedings. Mr. Henschel echoed Mr. Franzke's complaint about the two-minute time limit for speakers.

Mr. Henschel expressed disappointment the proposed resolution regarding the white papers stated the Council only "acknowledged" the white papers. He commented about section four of the resolution which stated,

The City Council is not acting on any of the recommendations in the White Papers at this time. Any actions or decisions will occur in future decisions by the Council relating to the proposed annexation. The Council is not making any decision at this time.

He noted many people were concerned the white papers would not be accepted as a real part of the annexation plan and the Council was not going to promise, in writing, to adhere to the white papers. He related the poorly worded resolution lends credence to such concerns.

- Isador W. Morgavi, 15145 SW 119th Ave., Bull Mountain, Oregon, read from a prepared statement (Agenda Item No. 10, Exhibit 5) which is on file in the City Recorder's office.
- Larry Gage, 15149 SW Cabernet, Tigard, Oregon, explained the white paper regarding police services focused on three components: cost, level and transition of services. Mr. Gage contended a far more important consideration was the quality and effectiveness of policing. Mr. Gage

expressed his satisfaction with the current police service provided by the Washington County Sheriff's office. He asked, in the event of annexation, the City of Tigard to try and provide police services at the same level of quality, effective policing.

- Mary Stobbe, 14795 SW 144th, read a prepared statement (Agenda Item No. 10, Exhibit 6) written by her husband, Bruce Stobbe. The statement is on file in the City Recorder's office.
- Mary Stobbe, 14795 SW 144th, read a prepared statement (Agenda Item No. 10, Exhibit 7) written by Allen Howard. Ms. Stobbe reported his address as 14796 SW 144th. It was later determined the statement was from Alan Howard, 14855 SW 144th, Tigard, Oregon. The handwritten statement is on file in the City Recorder's office.
- Charles F. Radley, 15729 SW Colyer Way, Tigard, Oregon, addressed the Streets White Paper. Mr. Radley stated the white paper raised several unanswered questions:
 1. Transition period – Is there really enough time between December, 2004 and July, 2005 to bring county roads into compliance with the Urban Services Agreement? He had not seen a description of how many roads were affected and what improvements were needed. He inquired what would happen if the county failed to meet the deadline.
 2. Street improvement costs totaling \$19,380,000 – He noted this figure is likely to increase based upon new information that the county intends to turn over jurisdiction of Beef Bend Rd. to the annexing entity. He added if improvements to Beef Bend Rd. are similar to those done on Bull Mountain Rd., it could cost an additional \$8 million.
 3. Increased traffic volume on Highway 99W – Mr. Radley cited the white paper, saying improvements to Bull Mountain Rd. could result in greater traffic congestion on Highway 99W from Durham Rd. to Hall Blvd. He relayed there are no proposals on the table to relieve traffic issues on Highway 99W.
- Kathleen Palmer, 14260 SW High Tor, read from a prepared statement (Agenda Item No. 10, Exhibit 8) which is on file in the City Recorder's office.
- Lisa Hamilton-Trieck, 13565 SW Beef Bend Rd., unincorporated Bull Mountain, Oregon, opened by saying she took issue with earlier statements

made by Mr. Hendryx regarding the recruitment of subcommittee members. She stated she was aware of one person who was not permitted to serve because the allotted number of Bull Mountain participants had been reached on that particular subcommittee. Citing experience from the Visioning Task Force, she challenged the assertion that volunteers are difficult to find, adding people were eager to volunteer.

Ms. Hamilton-Treick described two main points regarding the Planning White Paper:

1. Tigard's comprehensive plan is outdated. Ms. Hamilton-Treick criticized the county's lack of planning and noted the county indicated it did not have the resources to plan the area.
2. The subcommittee's recommendation to pursue a public facility strategy to slow or stop development to allow time for the area to "catch up" is absolutely essential. She asserted the Bull Mountain area was "a mess" and residents deserved more than a "hodge-podge" community.

Ms. Hamilton-Treick expressed her support for subcommittee's recommendation that density transfers be prohibited.

Citing the white paper, Ms. Hamilton-Treick stated she was surprised no effort had been made to estimate the cost of providing comprehensive planning services for unincorporated Bull Mountain. She also expressed surprise over the suggestion owners/developers of areas 63 and 64 be assessed a fee to pay for the comprehensive plan. She asked what would happen if they did not wish to sell their property in the near future. She noted despite contact with the city and the county, she had been unable to determine which jurisdiction had the authority to plan areas 63 and 64.

Ms. Hamilton-Treick concluded by saying the white paper identified some interesting points, but since the report was not anchored to the annexation plan, the plan remains deficient.

Councilor Moore suggested Ms. Hamilton-Treick contact Metro regarding the planning for areas 63 and 64. Ms. Hamilton-Treick stated she already had. Mayor Dirksen explained the city had announced it wanted to do the planning for these areas, but no decision had been made. Ms. Hamilton-Treick advised, in the meantime, builders and developers were making plans.

Neutral

- Alice Ellis Gaut, 10947 SW Chateau Ln., stated she had reviewed the Parks and Planning White Papers. She characterized the consistent theme in both reports as "stop the bleeding" and "spend the money to get the work done." She noted both papers made suggestions regarding a public facilities strategy or other mechanism to halt development, which would retain potential parkland and allow time to get the comprehensive plan in order. She suggested subcommittee's recommendations should be taken to heart and applied across the board. She advised if important work such as purchasing land, updating the comprehensive plan, revising the code, and conducting daily business could not be done quickly and concurrently, there wouldn't be anything left to plan for; there wouldn't be any parks.

Ms. Ellis Gaut expressed concern over the costs associated with annexation, noting that based upon comments at this meeting, even more money would be needed. As a Tigard citizen, she stated she was troubled revenues needed for the annexed area may come from the City of Tigard. She mentioned the \$4,000 spent on the public relations firm, commenting such funds could have been used to purchase parks or pay for staff. Ms. Ellis Gaut relayed the Planned Development Review Committee had not met in two months because staff was not available.

She concluded by saying if projects such as updating the comprehensive plan and parks are a priority, then such projects need to be funded.

- Ellen Beilstein, 14630 SW 139th Ave., Tigard, Oregon, stated she appreciated the opportunity to participate on the planning subcommittee. She said city staff and others on the subcommittee were open to exploring planning and development issues facing Bull Mountain.

Ms. Beilstein addressed some issues related to the Parks and Streets White Papers.

1. Parks. Ms. Beilstein stated the white paper indicated SDCs collected would be used to fund Bull Mountain parks, but SDCs could not cover the cost of parkland. She asked how the city would address shortfalls in funding and the purchase of parkland. She asserted these questions should be addressed before proceeding with the annexation plan.
2. Streets. Ms. Beilstein said she was alarmed this white paper did not address capacity and the impact of continued development. She inquired where the \$19 million in capital improvements would come

from. The white paper did not detail how the \$19 million was established or what construction standards were used. She asked if the "green streets" standard, supported by Metro, had been or could be applied. She noted the addition of Beef Bend Rd. and asked how this would impact area residents and how the city would address this issue.

Ms. Beilstein commented on her work on the planning subcommittee. She noted if the Bull Mountain area is not annexed, there would be no change in the development since the county has no plans to update the Bull Mountain Community Plan, written over 20 years ago. With annexation, the city would include the Bull Mountain area in its process to update the comprehensive plan. However the comprehensive plan update, which could change the scope of development, would take at least three years to complete and could not get underway for a year. Therefore, with annexation, no change in the nature of the development on Bull Mountain would occur for at least four years. By that time, most land would already be developed in a manner unacceptable to many Bull Mountain residents. Ms. Beilstein asserted change needed to occur sooner before the remaining properties are over-developed as compared to existing neighborhood standards. She noted if Bull Mountain residents are to benefit from annexation, as the city professes, then the update to the comprehensive plan needs to be accelerated. She added if that could not be done, then she encouraged the city to pursue all other steps possible to slow development.

Ms. Beilstein stated many questions remained unanswered and asked the Council to consider delaying their adoption of the white papers, as complete documents, until such questions could be explored and answered.

Mayor Dirksen announced this concluded the public testimony.

d. Staff Recommendation

Mr. Hendryx recommended the Council adopt the resolution to acknowledge the white papers.

e. Council Discussion

Councilor Moore advised the white papers were not meant to be an extensive, detailed study. He noted he was hesitant to spend Tigard residents' money for a more in-depth study, when it was not clear annexation would occur. He

added the public comments were important and issues identified would be addressed if annexation actually took place.

Councilor Sherwood referred to the December hearing and earlier meetings and talks where many questions had been raised. She explained she wanted to get answers to those questions and get an idea about "what some of this was going to look like, exactly, instead of just random ideas out there." Councilor Sherwood thanked the subcommittee participants. Councilor Sherwood concurred with Councilor Moore. She did not want to expend City of Tigard dollars on something that was "not a done deal."

Councilor Wilson affirmed the purpose of the white papers was to start filling in some of the blanks regarding what people's concerns actually were. With regard to the time limit placed on speakers, Councilor Wilson noted people have had many of opportunities to address the Council and, as a result of this contact, he knew many of the speakers personally. He told the audience, "we are listening." Councilor Wilson stated some valid issues had been raised regarding the timing and purpose for the public relations firm.

With regard to comments about the incompleteness of the white papers, Councilor Woodruff relayed he did not expect the white papers to serve as a final plan. He thanked people for their input throughout the process. Councilor Woodruff recommended the July 27, 2004 meeting be devoted to consideration of the annexation plan.

Mayor Dirksen explained the intent of the white papers was to identify issues and where the city should focus its energy. The white papers also explored the city's ability to provide services following annexation. In response to an earlier comment, Mayor Dirksen noted he was not uncomfortable with the annexation plan, which fulfilled legal requirements. He stated the annexation plan addressed how annexation would take place in contrast to the white papers, which were intended to help address concerns and demonstrate whether the city was able to provide services. He relayed the white papers were a process of discovery and education. Mayor Dirksen stated the white paper subcommittees had accomplished their goal. The white papers will be studied further and will help the Council identify what it needs to do and what decisions and commitments should be made if annexation occurs. Mayor Dirksen stated he was pleased with the white papers.

Councilor Woodruff confirmed acceptance of the white papers was a distinct and separate issue from approving the annexation plan and putting the issue on the ballot.

f. Council Consideration: Resolution No. 04 - 47

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 04 - 47.

Resolution 04 - 47, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TIGARD ACKNOWLEDGING THE WHITE PAPERS RELATED TO THE PROVISION OF URBAN SERVICES IN THE BULL MOUNTAIN AREA

Mayor Dirksen pointed out the terminology used in section 2 of the resolution which states, "The Council accepts the White Papers . . . as providing information that will assist the Council."

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

11. EXECUTIVE SESSION: No executive session was held.

12. COUNCIL LIAISON REPORTS

Councilor Sherwood reported no vote had been taken on the Regional Blue Ribbon Housing Task Force from Multnomah, Washington and Clackamas Counties. The issue of the acceptance of the report and findings was referred to a subcommittee for more work and the item is scheduled to come back for consideration in September. Councilor Sherwood said the task force was seeking recommendations. She indicated she would like to discuss the matter with the Council at an upcoming workshop meeting. It was agreed the item would be scheduled for the August workshop.

13. NON-AGENDA ITEMS

CONSIDER A RESOLUTION APPOINTING JANE MCGARVIN AS DEPUTY CITY RECORDER

- a. Staff Report
City Manager Monahan provided the Council with background information on this item.
- b. Council Discussion
There was no discussion.
- c. Council Consideration: Resolution No. 04 - 48

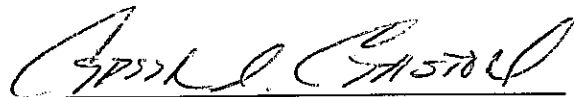
Motion by Councilor Sherwood, seconded by Councilor Wilson, to adopt Resolution No. 04 - 48.

Resolution 04 - 48, A RESOLUTION OF THE TIGARD CITY COUNCIL APPOINTING JANE MCGARVIN AS DEPUTY CITY RECORDER

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

The meeting adjourned at 10:50 p.m.



Greer A. Gaston, Deputy City Recorder

Attest:



Mayor, City of Tigard

Date: _____